
AGISTER'S LIEN SALES

Any person who has lawful possession of a piece of personal property and who has rendered any service to the owner thereof, such as pasturing, repairing, safekeeping, etc., has a special lien against the property for compensation for his services. The lien is dependant on claimant's retaining possession of personal property and is most commonly claimed against vehicles and livestock.

The lien created by such services does not take precedence over any perfected security interests under the Uniform Commercial Codes – Secured Transactions or other recorded liens on the property involved unless, within thirty days from the time of receiving the property, the person intending to perform the services and assert a lien on the property gave notice in writing to the lien holder of record, stating his intention to assert a lien and stating the nature and approximate amount of service and material intended to be performed and furnished.

If payment for the services or materials is not made within thirty days after the performance or furnishing of the same, the person entitled to a lien may enforce the lien through an Agister's Lien Sale. This instruction sheet and attached claim forms will help guide the claimant through the necessary steps in preparation for the Sheriff's Sale. All Sheriff's Sales have to be posted in three public places in Gallatin County. The Notice of Sale must be posted at least five days, but not more than ten days prior to sale. In addition the Notice must be published once in a newspaper of general circulation published in the county before the scheduled sale date. We also mail a copy of the Notice to the lien claimant and to the last known owner and lienholder of record if their addresses are known.

A Sheriff's Deputy will attend the scheduled time and place of the sale and conduct the sale as a public auction selling the personal property to the highest bidder for cash. After the sale, the Sheriff's Civil Clerk will issue a Sheriff's Certification of Sale to the purchaser of the property. This certificate will be mailed to the purchaser within 20 days of sale. In many cases, the agister's lien claimant is the only bidder in attendance at the sale, and therefore, is the successful bidder for an amount less than the lien claimed against the property. In that case, the claimant does not actually remit the amount of his bid to the Deputy, but the Civil Clerk shows on the Certificate of Sale that the amount bid was credited toward the amount of lien against the property.

If any other party is the successful bidder, he must remit the amount of his bid to the Deputy in cash. Or, if the lien claimant is not the only bidder present and he outbids his claim in order to retain the personal property, he must remit to the Deputy in cash the difference between his bid and his lien claimed. If cash is received, the Civil Clerk will first deduct the amount due for the Sheriff's fees (which would otherwise be paid directly by the lien claimant.) Next, the proceeds will be paid to the lien claimant up to the amount claimed plus costs. Any excess will then be applied toward chattel mortgages or other liens of record with the balance being paid to the owner of the property.